

**Minutes of the School Facilities Commission
University of Wyoming Outreach Building
Casper, Wyoming**

August 19, 2008

Chairman Gilpatrick called the meeting to order at 8:00 a.m.

Present: Commissioner Carrier, Commissioner Ferris, Commissioner Goodson, Fred Hansen standing in for Commissioner McBride, Commissioner Marsh, Chairman Gilpatrick and Director Daraie.

Commissioner Carrier made a motion to move into Executive Session at 8:00 a.m. Commissioner Goodson seconded the motion. Motion passed unanimously.

The Executive Session ended at 10:18 a.m. and a 20-minute recess was taken. The regular meeting reconvened at 10:35 a.m.

Chairman Gilpatrick welcomed Senator Nicolas, Senator Anderson, and Senator Dirks.

Approval of Meeting Agenda

Commissioner Goodson made a motion to approve the meeting agenda with the addition of two action items. Commissioner Carrier seconded the motion. Motion passed unanimously.

Approval of Previous Meeting Minutes

Commissioner Marsh made a motion to approve the previous meeting minutes from the March 18, 2008 meeting as presented. Fred Hansen seconded the motion. Motion passed unanimously.

Financial Report

Ms. Teresa Kunkel gave a brief overview of the projects that are ongoing. Commissioner Marsh asked what the Major Maintenance budgets were, to date. The Major Maintenance amount budgeted for School Year 2003/04 – School Year 2009/10 is approximately \$269 million.

Mr. Hansen stated that the way Ms. Kunkel estimated the budget is that she takes the current budget puts an inflation amount, and the combined impact is what is in the supplemental budget.

Ms. Kunkel explained she did a comparison of the prior year for Major Maintenance.

Current Business

Albany 1 Request

Project Manager, Paul Meyer, stated that the Snowy Range Academy began about 6 years ago. Their population has increased to 146, and preliminary indications show more increase to come. Currently the academy is K-7 and perhaps 8th and 9th grade will be added. They are currently in a former commercial space. One question is the appropriateness of the location of the school. They started out with 20,000 sq ft. with extra space at the back of the building. He added that 25,000 sq. ft. would be authorized by our guidelines, the additional amount of free space. The School District is now requesting that we reimburse them for the cost of occupancy for the Snowy Range Academy for the base amount of rent, tenant improvements and additional rent for taxes and utilities.

Mr. Meyer stated that the staff's recommendation is that the commissioners approve the first two components of the cost of occupancy for a total of \$142,450. Mr. Meyer found that there was no other appropriate location for the school, and the School District does not have any excess square feet to provide for the academy.

Mr. Brian Reck stated that they support the recommendation of the SFC staff. They just renewed the charter for another 5 years, and they have proven that they are sustainable. The Charter has met the statutory requirements. He believes that the recommendation of the SFC staff is very reasonable and fair.

Mr. Fred Hansen stated that in reviewing the statue, the commission needed to determine that there is no other adequate space available, which they determined.

Mr. Fred Hansen made a motion to accept the Staff recommendation as set forth above. Commissioner Marsh seconded the motion. Motion passed unanimously.

Big Horn 1 Request

Superintendent Shon Hocker, introduced Brian Leisure and Michael Simmons. Mr. Hocker stated that they were at the commission meeting to show there is an anticipated deficit in their school, and were there to request additional funding so that they can start their middle school and high school project.

Mr. Daraie stated there was a misunderstanding on the request, and the use of Major Maintenance dollars to bridge the cost.

Commissioner Marsh asked if 5 years ago the commission made a change to the elementary school that was built – it was to be a k-6 school and now this request is for a K-12 school. He asked what the square footage of the elementary school was. Mr. Hocker answered that it is 37,000 sq. ft. Commissioner Marsh stated that it stands at approx 10,000 additional square feet over what should be allowed under our K-5

configuration elementary school. The district stated they have 160 students. Commissioner Marsh stated that he had a real reluctance with anything that is not appropriate utilization of our funds nor does it show we are a good steward of the funds. The auxiliary gym is included in the plans, but the school district has paid for that. There is no way Commissioner Marsh could support any expenditure to go beyond or over the footprint - under our SFC guidelines.

Mr. Jolly stated that they developed these plans with SFC staff with the needs of the students in mind.

Mr. Simmons stated that when they designed the school they added the 6th grade, which met the old guidelines. It is a prototypical model, and about 2 years after being in the building they came to the Commission to change the configuration before they started the drawings. At that time he believed that the commission should have said they did not like the direction they were going.

Mr. Simmons stated they created the 82 page report to show the master plan, with the bottom line in the supplemental document.

Chairman Gilpatrick, stated that the Commission is not interested in giving additional monies even though we are at 100% of design. He asked what their plans are with the auxiliary gym, how they are addressing facilities and how they fit in the square footage allotment.

Mr. Hocker stated that they are under 3 sq ft. right now.

Director Daraie stated that we have a lot of flexibility in guidelines and the school district's needs. It has taken so long for this project, and the way we would approach the project is we would forecast the population and all the various educational disciplines to imbed the community needs. They are within the guidelines, and the project has gone through extensive value engineering.

Commissioner Marsh expressed his concern for this other 10,000 ft in the other school and the ½ million dollar expenditure. He asked where this resource is coming from.

Mr. Simmons stated that the ½ million obligated, at that time, is pre 97 funds held in reserve.

Commissioner Marsh asked where they anticipated getting the remainder of the money for the gym. He assumed the district would come back in two years asking for Major Maintenance funds to finish the gym. This has never been presented to the Commission as a curriculum need, but always been presented to the commission as an after school need.

Josh stated that in order to comply with the rules, they needed to show a picture, when he saw the posting for the agenda item it shocked him. He added that they were at the meeting to reallocate the Major Maintenance for the inflationary amount. They were

ready to go at 100%, but needed the Commission's approval of use of Major Maintenance funds of 2 million dollars. The focus should not be on the auxiliary gym. Commissioner Gilpatrick asked Big Horn 1 School District to write a letter to the Commission stating the square footage is sufficient and that the SFC is meeting that suitability and educational needs of their students.

Commissioner Marsh made a motion to approve the request to allow utilization of Major Maintenance funds of the proposed 6-12 base project contingent upon the school district accepting, in writing, this project as suitable for their 6-12 educational needs; also, that any enhancements be brought forth to this commission prior to construction. Fred Hansen seconded the motion

Commissioner Marsh moved to withdraw this motion. Chairman Gilpatrick declared the motion was withdrawn.

Commissioner Jeff Marsh then moved to approve up to \$2.081 million in district Major Maintenance funds to supplement existing Capital Construction funds to complete design and construction of the base footprint of the Rocky Mountain Junior/Senior High School (without the auxiliary gym) contingent upon receipt, in writing, by the school district that this facility completely satisfies the District's educational needs.

Commissioner Jeff Marsh also moved that no enhancement to this facility by the District will be allowed to proceed during design and construction of the base footprints without a determination by SFC staff, that the enhancement will not impede or impair construction at the base facility, and that the agreement come before the Commission for approval. Fred Hansen seconded the motion. Motioned passed unanimously

At 10:45 a.m. a recess was taken. The regular meeting reconvened at 11:10 a.m.

Commissioner Carrier clarified that if Big Horn 1 chooses to proceed with enhancement, it's their chose. It's difficult to delineate where the project starts and stops. He requested that the projects not be comingled. Enhancement must be started after completion of the base project.

Fremont 6 Request

Diana Clapp, Superintendent of Fremont No. 6, stated they were before the Commission to request Major Maintenance funds to replace lights on the football field at the Wind River Middle/High School.

They discovered that one of the light poles had failed and another had sustained significant damage. It's been 7-8 months of looking into the assessment of failure of the poles.

We are at a place where we need to move forward with repairing the lights and getting them in operation. Their hope was to demonstrate that the funds are in the Major Maintenance account fund, and they have an excess of 1 million dollars that can handle this request. Ms. Clapp stated they have a bid of \$380,000 that would be the full cost of

the replacement of the poles. They do not have the positive determination of the failure of the current poles at this time. We have a number of parties involved in looking into the determination. Their first avenue has been with the insurance company to get a settlement. Engineers and experts have attempted to find a determination also.

Commissioner Goodson stated this is an issue of policy; this is an enhancement and we don't fund enhancements.

Commissioner Goodson moved that they deny the request of Fremont County School District No. 6 for the use of major maintenance funds to replace lights on the football field at the Wind River Middle/High School. Commissioner Algier seconded the motion. Motion passed unanimously

Superintendent Clapp asked for further clarification, and asked if the decision is to use no more Major Maintenance funds? She added that some districts would not be able to meet these projects.

Chairman Gilpatrick stated that we are undertaking another IBS session to try to determine how to handle enhancements. Until we go through that process we won't be able to make those decisions. We are waiting on that, statewide.

Director Daraie added that it is difficult to ask the commission to make a decision and asked for the District's patience. He added that we will have an answer.

At 11: 45 a.m. a lunch recess was taken. The regular meeting reconvened at 1:00 p.m.

Laramie 1 Request

Fred Hansen stated in the interest of time, he was prepared to make a motion to accept the Staff's recommendation and approve the request. Motion was seconded by Commissioner Goodson. Motion passed, Commissioner Marsh voted no.

Commissioner Marsh asked if there was any additional discussion.

Director Daraie stated that there were some questions about trees, etc. He added that we should know that the Board of Public Utilities put in a tap for fire suppression 4", and the District also put a 4" tap strictly for domestic use. BOPU has agreed to pay for the upsize of the sewer lines.

Commissioner Marsh asked Mr. O'Donnell, since he has been involved from the beginning that he simply review documents.

Fred Hansen wanted to point out they were approving an expenditure of 1.7 million dollars, and has nothing to do with the recapture.

Mr. O'Donnell stated that was correct.

Mr. Hansen asked what budget the 1.7 million dollar would come out of.

Director Daraie replied that it was from the off-site infrastructure budget. The legislature, in the last two sessions, appropriated 6.9 million and subsequently 3 million dollars.

Mr. Hansen stated that the budget that Ms. Kunkel showed the Commission earlier in her report for the 2007/2010 biennium infrastructure funds had a balance of 9.7 million dollars. This 1.7 million uses quite a bit of that up, and believed there was another request from Laramie 1 for \$300,000. He asked if there's a priority list or is it first come first serve.

Director Daraie stated that when SFC developed that budget they went through their entire project list and accounted for all associated off-site infrastructures and potential expenses, and that represents the budgeted amount.

Baggs Elementary

Fred Hansen moved to accept staff recommendation to approve the use of \$78,800 from the off-site infrastructure fund for the Baggs Elementary School with the understanding that the staff will comply with state statutes to recapture funds in the expenditure of the offset. Commissioner Carrier seconded the motion. Motion passed unanimously.

Ken Burnett handed out a map and indicated the location of Wills Road. We have an adjacent single-family resident that is to the west of Wills Road. That improvement is approximately 250 feet of frontage, times half the width of that street, for a cost of \$8,500. There is also curb and gutter for the same distance for another \$8,750, base material for \$3,000, labor and miscellaneous for a total of \$30,250. To the south of the residence, is a commercial property, A-I Rental's portion would also be \$30,250. Directly south of the school is a bank, with their portion to be \$18,300. Those three members total 78,800 and that is the entire off-site improve funding request for Baggs Elementary. We will provide the city with the recapture agreements necessary to recapture the funds.

Commissioner Marsh asked Mr. Ken Burnett why there was such a discrepancy in the first off-site funding request for Baggs Elementary School

Mr. Burnett replied that when he first brought it to the Commission, he was under the misunderstanding that everything past the property line was the off-site infrastructure, but that's not the case.

Sweetwater 1 – Student Population Projection

Jim Lowham, sometimes when we work with school growth, it's school wanted growth or true growth. Sometimes there are extrapolations that we don't like. In Sweetwater County there is true growth. After reviewing the cohort projection data provided by Todd Wilder and projections provided by the District, the number 983 at the end of the sentence after the first bullet on Tab 7 is the correct number. If you apply that number, you would build a facility for 983 children in grades 5-6, but when they move to grade 7-

8 it could be less. Districts generally don't lose students in those grades. Frequently, when they move into high school you see numbers go down.

Superintendent Paul Grube stated that they have reviewed student population over numerous years, and they discussed this with the SFC staff. They would like the commission to consider the 983 as the 5-6 population.

Ken D. the process that Jim is referring to is a 5-year projection. If you extend the study by a couple of years the projection will show the growth. He asked under what circumstances we make exception.

Mr. Lowham asked if there are some factors the commission would like to see appropriated in the extrapolation versus the 5-year study.

Commissioner Marsh stated that they don't know, but they look to staff for that information.

Mr. O'Donnell stated that in the SFC proposed rules, it talks about using the best available and reliable date to identify the population.

Adoption of SFC Rules

Ms. Donna Murray reported to the School Facilities Commission that in April the Commission adopted what is currently our rules on an emergency basis for 120 days. During the 45 day comment period on the new SFC rules, LSO indicated they have concern primarily that the substantial work being done by policy as opposed to it being in rule. They would be forced to make a recommendation to the Governor that the rules be denied. We are in the process of revising the rules so that they will address the concerns that the LSO has given us. We also held a WEN video conference, and comments will be coming in writing. Ms. Murray stated that she would bring those comments to the Commission at the next meeting. We will also provide the new rules in strike and underline format. What needed to be done at the Commission meeting is to re-adopt the current rules on an emergency basis.

Ms. Murray added that they are currently looking at our policies with counsel to determine what policy needs to be into a rule, and would bring the new rules to the Commission in September.

Commissioner Carrier cautioned that everyone take enough time to get the rules to the public for comment so that we will be very transparent.

Commissioner Marsh made a motion to approve re-adopting the SFC Rules currently on file with the Secretary of State's office on an emergency basis to allow SFC Staff time to address the concerns expressed by the Legislative Service Office. Commissioner Algier seconded the motion. Motion passed unanimously.

Educational Suitability Assessment

Deputy Director Lowham stated that Educational Suitability has been an issue, and people want more than the 10% allowance. The supreme court said at one point, "I can't define Educational Suitability, I just know when I see it."

A group got together last December, and the group quickly diminished in size to one person doing a lot of work— Rich Seder. It was piloted briefly in Cheyenne in June. In the terms for educators you can take a test and you may have an accommodation or a signification change – that's a modification. A 4 point on a scale would be good, 3 may need some structural changes - but minor, 2 would be substantial, 1 is very substantial, with 0 as a fatal flaw. We believe we are very close to having a tool that would be a valid measure and reliability where we can go out and access some schools. We're going to update that group at the WEN conference. There's going to be a group meeting in Casper on September 3-5, 2008 to go out and pilot this again. In early October we will meet again in another district to do the same thing. Mr. Lowham encouraged people to attend with a walk through of schools. They hope sometime in the late fall to begin using the tool and start training people. He does see this as a tool where we can start talking, with some specificity, that this is Educational Suitability.

Mr. Fred Hanson made a motion to approve the Major Maintenance request for 12.6 million dollars for the supplemental request for the remainder of the 2009/2010 biennium. Commissioner Marsh seconded the motion. Motion passed unanimously.

Supplemental Budget Presentation

Director Ken Daraie stated that the original budget for this biennium was based on the capacity to deploy dollars efficiently. The Governor's recommendation was reduced with the caveat by taking 35 million dollars off our budget, since then inflation from indirect consequences has carved out a similar figure. It produces about 70 million dollars, our priority list has not changed. Chairman Gilpatrick and Director Daraie will visit with the Governor.

Commissioner Marsh gave the Director the directive to send a letter to the districts that in no way is this to be construed as permission to go ahead with a project. A copy of the letter is to be sent via email to all the commissioners and staff. The information was in the packet, and is public information.

Ms. Murray stated that, as a procedural matter, we will need to have the commission approve the CAPCON portion of the budget. We must submit our budget to the Governor's office by August 29, 2008. We will need to schedule a conference call sometime at the end of the month to talk about the CAPCON portion before we submit the budget to the Governor.

Mr. O'Donnell stated that we became aware that the Governor is leaving town on August 22nd and not returning until after the first of the month.

Director Daraie asked the commission for permission to go forward with the information, and then come back to the commission regarding the response of the governor.

Commissioner Carrier moved to approve the supplemental budget as presented by SFC staff. Commissioner Algier seconded the motion. Motion passed unanimously.

Mr. Fred Hansen asked if the current estimate for Triumph High School of \$9,540,000 is a good number with no funds needed about that number. The second priority on the list is Horizon High School, with needs of \$482,996 to finish their project. He added that Roosevelt has no numbers at all, but is the third priority on the list.

Director Daraie replied that it's an estimate, and that's the case all the way through. In some cases we have a great deal of clarity and certainty and other numbers are simply estimates. This is not a construction or project list. This is what is referred to as a needs list.

Non-Expend Funds for Errors & Omissions

Ralph Goodson moved that the SFC will not expend funds to correct errors or omissions in construction or design that were not funded by the Commission. Commissioner Marsh seconded the motion. Motion passed unanimously.

Major Maintenance for Capital Construction – Commission Prior Approval

Commissioner Goodson moved that the School Facilities Commission require that all expenditures of Major Maintenance for Capital Construction be approved by the Commission prior to expenditure. Commissioner Marsh seconded the motion. Motion passed unanimously

Commission Meeting Schedule

Discussion was held regarding the retreat scheduled for September 25-27, 2008. It will be at the Plains Hotel in Cheyenne, with football tickets courtesy of the University President for Commissioners and spouses.

Items to be discussed are: budget, rules, charter schools in general, Major Maintenance balances, performance evaluation of staff, inter-district project funding, and project delivery methods.

Public Comments

Mr. Greg Olson stated that he had an issue that came up in Carbon County School District, where they requested a Request for Proposal. Eleven contractors submitted proposals, and the list was reduced to 5 contractors. They didn't make the short list to be interviewed for the Carbon County School District projects. He asked if he could find the criteria for the selection process. Nancy Thomson arranged for the conversation per phone call conference to talk about how they evaluated the criteria. Mr. Olson stated his impression was that on the RFP they were second on the list, but then they altered that by taking the amount of contingency. That kicked them to 4th place. The thing that really

concerned Mr. Olson more was that the SFC staff was particularly adamant with Carbon County people following the process. He added that what he heard at the commission meeting on the design build presentation is that selection needs to be on technical presentation and somewhat on the basis of price, so there are some things we need to do regarding criteria selection. Relationships are a critical aspect, and something Mr. Olson works on. He asked the Commission to have staff look at the CMAR process as being appropriate. At times the CMAR is no longer at risk because he has transferred it to the subcontractor.

Mr. Olson stated that he was personally opposed to Design Build. He has heard that the SFC staff is no longer a friend of the Wyoming contractors; that staff desires to bring in big national contractors. He added that he hoped the Commission would give them the opportunity to do the up-coming work and not lose it to the design build process.

Chairman Gilpatrick stated he does not agree with the 5% contingency funds, and realizes that CMAR is sometimes cumbersome. Procurement is a topic scheduled for discussion at the September Commission retreat.

Commissioner Marsh thanked Mr. Olson for his comments. If we move into this design build as an option, we need to make it fair. Everybody needs to know the rules at the beginning, not after the fact. Commissioner Marsh added he knows that the contractors of Wyoming are innovative enough to do Design Build.

Nancy Thomson stated that the State of Wyoming doesn't have a lot of experience in Design Build, but that is something we can work out. It is the responsibility of the SFC and staff to build the schools in the most efficient and effective manner. She added that in regards to staff not being a friend of the Wyoming contractors - we certainly appreciate them and the work that they do.

Director Daraie stated that what he will advocate is to be more selective in deciding what process is used in the delivery method. The design for the CMAR selection process will be consistent. State SFC monies go through a process that means the planning process is in place in the beginning, educational planning and educational specifications are in place as well. We agree on the method of delivery, and selection of Architects and contractors. We get involved in the actual planning, and the educational needs of the schools, etc.

Mr. Dave LaPlante stated that next month Tom and he would have been coming before the Commission on Greybull Elementary School with some problems on the initial construction and design. The design team and the contractor rectified those issues at no cost. He personally thanked Greg Olson.

Commissioner & Director Comments

Director Daraie officially introduced Lauren Volk, Construction Manager, who joined SFC on August 18th and works in the Cheyenne office; and Jim Lowham, Deputy Director of Planning, who will be assisting with all the planning aspects, coming up with ideas and provide suggestions to assist in several areas.

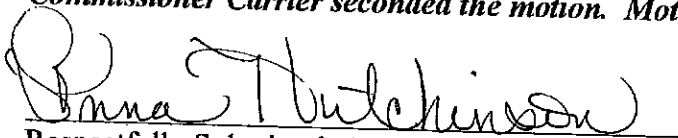
Director Daraie stated that an issue came up recently with personal computers, and how a personal computer could potentially be used in a law suit.

Ms. Murray stated that it's becoming more prevalent that emails are subject to discovery, and work that is done on your personal computers could be subject to investigation. SFC staff suggests that perhaps that each commissioner be issued a laptop for SFC work. If you would like to do so, we will order laptops. Ms. Murray wanted the Commission members to be aware that your personal and business information could be subject to review in a discovery request in an SFC matter. The SFC technology staff will do some research and come up with the best option and contact each commissioner individually. The Commission asked that they be issued State GroupWise address.

Director Daraie gave special recognition to Rich Seder, Jim Lowham, and Dave Bartlett, who have carried the brunt of the Educational Suitability work (applause).

Adjournment

*Commissioner Marsh made a motion to adjourn the regular meeting at 2:35 p.m.
Commissioner Carrier seconded the motion. Motion passed unanimously.*


Respectfully Submitted, Anna Hutchinson

Approved by:


Richard Gilpatrick, Chairman